

REMARKS

By the present amendment, Applicant has amended Claim 12. Claims 1-6, 8, 9, 11-15 and 17 remain pending in the present application. Claims 7, 10 and 16 were canceled by previously filed amendments. Claims 1, 12 and 14 are independent claims.

In the recent Office Action, the Examiner provisionally rejected Claims 1-6, 8, 9, 11, 14, 15 and 17 on the grounds of non-statutory obviousness-type double patenting as being unpatentable over Claims 1 and 11-13 of copending Application No. 10/760,589. The Examiner indicated that Claims 12 and 13 would be allowable if rewritten in independent form.

The Examiner's indication of allowable subject matter is noted with appreciation. In this regard, Applicant has rewritten allowable Claim 12 in independent form. For at least this reason, Applicant respectfully submits that independent Claim 12, as amended, and corresponding dependent Claim 13 are allowable over the prior art of record.

Regarding the Examiner's rejection on the ground of obviousness-type double patenting (ODP), it should be noted that a ODP rejection was made in Application No. 10/760,589, filed January 21, 2004. A terminal disclaimer was submitted in Applicant's later-filed application to

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Art Unit: 3722

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overcome the ODP rejection and this application was permitted to issue as now U.S. Patent No. 7,093,857. A copy of this terminal disclaimer is attached for the Examiner's convenience. Since a terminal disclaimer has been submitted in Applicant's later-filed application, a terminal disclaimer in the instant earlier filed application should not be required. See MPEP 1490 D. Applicant respectfully requests withdrawal of the ODP rejection and that the present application be allowed to issue without need of a terminal disclaimer.

For the foregoing reasons, Applicants respectfully submit that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



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Attachment: Copy of Terminal Disclaimer from Application No 760,589.